



U.S. Department of Justice

Office of Legal Counsel

Washington, D.C. 20530

August 30, 2018

Chris Saeger
Executive Director
Western Values Project
csaeger@westernvaluesproject.org

**Re: FOIA Tracking Nos. FY17-228, FY17-229;
Western Values Project v. U.S. Dep't of Justice, D.D.C. No. 17-cv-1671**

Dear Mr. Saeger:

I write on behalf of the Office of Legal Counsel (“OLC”) regarding the above-referenced action brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Pursuant to the Joint Status Report filed on August 7, 2018 (DE 20), this letter and the enclosed draft index provide a description of the records and information that are responsive to your requests. As you know, the requests seek records “that mention, describe, refer to, or relate to a request or effort to revisit rescind, amend, or revoke” either of two named opinions or that “discuss, summarize, or analyze, or include/include as an attachment” a particular published report by the American Enterprise Institute.

OLC has identified 44 emails (with a combined 37 attachments) and nine stand-alone documents that are responsive to your requests. The records are exempt, in whole or in part, pursuant to FOIA Exemption Five, 5 U.S.C. § 552(b)(5). The material that is exempt pursuant to Exemption Five is protected by the deliberative process and/or the attorney-client privilege, and some material is also subject to the attorney work product doctrine.

The draft index identifies and describes each document. This letter and index reflect OLC’s preliminary determinations regarding the applicable exemptions. They are being provided to allow the parties to attempt to resolve or narrow the issues still in dispute without the Court’s intervention. Certain information has been abbreviated in the interest of clarity. A legend for the draft index is as follows:

Abbreviations

DPP – Deliberative Process Privilege
ACP – Attorney-Client Privilege
AWP – Attorney Work Product Doctrine
EBE – non-OLC Executive Branch Entity

Individuals (titles at time of documents’ creation)

Curtis E. Gammon – Acting Assistant Attorney General, OLC
Daniel L. Koffsky – Deputy Assistant Attorney General, OLC
Henry C. Whitaker – Deputy Assistant Attorney General, OLC
Rosemary Hart – Special Counsel, OLC

Scott Stewart – Counsel to the Assistant Attorney General, OLC
[OLC Attorney Adviser] – Attorney Adviser, OLC
Marchelle Moore – Staff Assistant, OLC

All of the named individuals above are attorneys engaged in the OLC process of developing and providing legal advice, except for Staff Assistant Marchelle Moore.

Once you have reviewed the chart, we look forward to your identification of any documents on which you intend to challenge withholding or seek further processing. If you have any questions, your counsel may contact Assistant U.S. Attorney Marsha W. Yee, at (202) 252-2539, or at Marsha.Yee@usdoj.gov.

Sincerely,



Paul P. Colborn
Special Counsel

Enclosure

cc: Marsha W. Yee, Assistant United States Attorney
United States Attorney's Office, District of Columbia

Scott Allan Hodes, Esq.
Counsel for Plaintiff

DocID	From	To	Cc	Date	Type	Description	Privilege(s)
5161	Scott Stewart	Rosemary Hart	Curtis E. Gannon	Thu Mar 02 2017 17:03:00 EST	Email	Regarding draft Executive Order (EO)	DPP, ACP
5161-000001					Attachment	Draft EO	DPP, ACP
5176	Rosemary Hart	Ashwin Phatak		Fri Mar 03 2017 14:44:12 EST	Email	Relaying research material (draft OLC memorandum to file)	DPP, ACP
5176-000001					Attachment	Research material (draft OLC memorandum to file)	DPP, ACP
5190	Rosemary Hart	Ashwin Phatak		Fri Mar 03 2017 17:14:14 EST	Email	Relaying research material (non-public OLC memoranda)	DPP, ACP
5190-000001					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5190-000002					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5190-000003					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5190-000004					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5190-000005					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5198	Rosemary Hart	Ashwin Phatak		Fri Mar 03 2017 17:17:58 EST	Email	Relaying research material (non-public OLC memoranda)	DPP, ACP
5198-000001					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5198-000002					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5198-000003					Attachment	Research material (non-public OLC memorandum)	DPP, ACP
5216	Rosemary Hart	Ashwin Phatak		Mon Mar 06 2017 16:17:36 EST	Email	Regarding draft EO	DPP, ACP

DocID	From	To	Cc	Date	Type	Description	Privilege(s)
5956	[none]			Tue Mar 07 2017 11:44:25 EST	Document	Draft legal analysis	DPP, ACP
5009	Daniel L. Koffsky	Scott Stewart; Curtis E. Gannon; Rosemary Hart; Henry C. Whitaker		Wed Mar 08 2017 12:18:17 EST	Email	Regarding draft EO and ongoing litigation	DPP, ACP, AWP
5057	Scott Stewart	Scott Stewart; Curtis E. Gannon; Rosemary Hart; Henry C. Whitaker; Daniel L. Koffsky		Wed Mar 08 2017 15:23:34 EST	Email	Regarding draft EO and ongoing litigation	DPP, ACP, AWP
5039	Rosemary Hart	Scott Stewart; Curtis E. Gannon; Henry C. Whitaker; Daniel L. Koffsky		Wed Mar 08 2017 16:31:04 EST	Email	Regarding draft EO and ongoing litigation	DPP, ACP, AWP
5071	Rosemary Hart	Curtis E. Gannon	Scott Stewart; Ashwin Phatak; Henry C. Whitaker; Daniel L. Koffsky	Thu Mar 09 2017 14:04:15 EST	Email	Regarding draft EO and ongoing litigation	DPP, ACP, AWP
5232	Curtis E. Gannon	[EBE 2]		Fri Mar 17 2017 18:27:24 EDT	Email	Regarding draft EO and ongoing litigation	DPP, ACP, AWP
5232-000001					Attachment	Research material related to ongoing litigation	DPP, ACP, AWP
5048	Rosemary Hart	Scott Stewart; Curtis E. Gannon; Ashwin Phatak; Henry C. Whitaker; Daniel L. Koffsky		Tue Mar 21 2017 17:00:51 EDT	Email	Regarding draft EO and ongoing litigation	DPP, ACP, AWP
5181	Ashwin Phatak	Rosemary Hart		Wed Apr 05 2017 17:21:11 EDT	Email	Regarding draft EO	DPP, ACP
5181-000001					Attachment	Draft EO	DPP, ACP
5954	[none]			Tue Apr 11 2017 18:10:16 EDT	Document	Draft legal analysis	DPP, ACP
5450	Ashwin Phatak	Scott Stewart; Curtis E. Gannon; Rosemary Hart; Henry C. Whitaker; Daniel L. Koffsky		Fri Apr 21 2017 16:26:20 EDT	Email	Relaying draft legal analysis	DPP, ACP
5450-000001					Attachment	Draft legal analysis	DPP, ACP
9704	[none]			Fri Apr 21 2017 17:03:32 EDT	Document	Draft Letter	DPP, ACP
5470	Ashwin Phatak	Rosemary Hart		Fri Apr 21 2017 17:13:01 EDT	Email	Relaying draft letter	DPP, ACP

DocID	From	To	Cc	Date	Type	Description	Privilege(s)
5470-000001					Attachment	Draft letter	DPP, ACP
9944	[none]			Fri Apr 21 2017 17:20:03 EDT	Document	Draft letter	DPP, ACP
5766	[EBE 1]	Curtis E. Gannon		Tue Apr 25 2017 07:56:09 EDT	Email	Regarding draft letters	DPP, ACP
5879	[none]			Wed Apr 26 2017 18:07:34 EDT	Document	Draft legal analysis	DPP, ACP
5620	Ashwin Phatak	Scott Stewart; Curtis E. Gannon; Rosemary Hart; Henry C. Whitaker; Daniel L. Koffsky		Fri Apr 28 2017 15:59:28 EDT	Email	Regarding draft legal analysis	DPP, ACP
5626	Curtis E. Gannon	Daniel L. Koffsky		Fri Apr 28 2017 16:29:08 EDT	Email	Regarding draft legal analysis	DPP, ACP
5939	Curtis E. Gannon	Marchelle Moore		Fri Apr 28 2017 16:31:15 EDT	Email	Regarding draft letters	DPP, ACP
5939-000001					Attachment	Draft letter	DPP, ACP
5939-000002					Attachment	Draft Letter	DPP, ACP
5939-000003					Attachment	Draft letter	DPP, ACP
5939-000004					Attachment	Draft Letter	DPP, ACP
11148	Curtis E. Gannon	[EBE 3]		Fri Apr 28 2017 17:02:39 EDT	Email	Relaying letter	DPP, ACP
11148-000001					Attachment	Letter	DPP, ACP
11241	Curtis E. Gannon	[EBE 4]		Fri Apr 28 2017 17:05:42 EDT	Email	Relaying letter	DPP, ACP
11241-000001					Attachment	Letter	DPP, ACP
6000	Curtis E. Gannon	[EBE 5]		Fri Apr 28 2017 17:08:06 EDT	Email	Relaying letter	DPP, ACP
6000-000001					Attachment	Letter	DPP, ACP
5630	Henry C. Whitaker	Ashwin Phatak	Scott Stewart; Curtis E. Gannon; Rosemary Hart; Daniel L. Koffsky	Fri Apr 28 2017 18:57:02 EDT	Email	Regarding draft legal analysis	DPP, ACP
6610	[EBE 6]	Curtis E. Gannon		Mon May 01 2017 19:51:47 EDT	Email	Regarding draft legal advice	DPP, ACP
7077	[EBE 6]	Curtis E. Gannon		Fri May 05 2017 18:55:48 EDT	Email	Regarding draft legal advice	DPP, ACP
6045	Rosemary Hart	[EBE 6]	Ashwin Phatak	Mon May 08 2017 15:23:24 EDT	Email	Regarding letter	DPP, ACP
6045-000001					Attachment	Letter	DPP, ACP
6183	[none]			Mon May 08 2017 18:30:26 EDT	Document	Draft legal analysis	DPP, ACP
6007	Curtis E. Gannon	Rosemary Hart		Tue May 16 2017 18:09:16 EDT	Email	Regarding draft legal advice	DPP, ACP
7423	[EBE 7]	Curtis E. Gannon	[EBE 7]	Fri May 19 2017 16:08:04 EDT	Email	Regarding draft legal advice	DPP, ACP
7423-000001					Attachment	Regarding draft legal advice	DPP, ACP

DocID	From	To	Cc	Date	Type	Description	Privilege(s)
5888	Curtis E. Gannon	Ashwin Phatak		Tue May 23 2017 13:06:42 EDT	Email	Regarding draft legal advice	DPP, ACP
5888-000001					Attachment	Regarding draft legal advice	DPP, ACP
11361	Curtis E. Gannon	[EBE 6]		Thu May 25 2017 10:51:28 EDT	Email	Regarding draft legal advice	DPP, ACP
5962	Curtis E. Gannon	Ashwin Phatak		Thu May 25 2017 18:30:41 EDT	Email	Regarding draft legal advice	DPP, ACP
6016	Ashwin Phatak	Rosemary Hart		Thu May 25 2017 22:03:10 EDT	Email	Relaying draft legal analysis	DPP, ACP
6016-000001					Attachment	Draft legal analysis	DPP, ACP
5955	Curtis E. Gannon	Ashwin Phatak	Rosemary Hart; Henry C. Whitaker	Fri May 26 2017 16:08:20 EDT	Email	Regarding draft legal advice	DPP, ACP
5955-000001					Attachment	Regarding draft legal advice	DPP, ACP
6020	Curtis E. Gannon	Ashwin Phatak	Rosemary Hart; Henry C. Whitaker	Fri May 26 2017 17:50:26 EDT	Email	Regarding draft legal advice	DPP, ACP
6020-000001					Attachment	Regarding draft legal advice	DPP, ACP
6195	[none]			Tue May 30 2017 17:27:48 EDT	Document	Regarding draft legal advice	DPP, ACP
9299	[none]			Fri Jun 09 2017 16:10:50 EDT	Document	Draft legal analysis	DPP, ACP
6069	Ashwin Phatak	Curtis E. Gannon; Rosemary Hart; Henry C. Whitaker		Fri Jun 09 2017 16:56:23 EDT	Email	Relaying draft legal analysis	DPP, ACP
6069-000001					Attachment	Draft legal analysis	DPP, ACP
6069-000002					Attachment	Letter	DPP, ACP
6069-000003					Attachment	Research material	DPP, ACP
6086	[EBE 3]	Rosemary Hart		Fri Jun 09 2017 18:35:56 EDT	Email	Relaying letter	DPP, ACP
6086-000001					Attachment	Letter regarding draft legal advice	DPP, ACP
6479	Rosemary Hart	Curtis E. Gannon; Ashwin Phatak		Fri Jun 09 2017 23:28:04 EDT	Email	Relaying letter	DPP, ACP
6479-000001					Attachment	Letter regarding draft legal advice	DPP, ACP
6122	Curtis E. Gannon	Rosemary Hart	Ashwin Phatak	Fri Jun 09 2017 23:49:43 EDT	Email	Regarding letter regarding draft legal advice	DPP, ACP
6929	Curtis E. Gannon	Henry C. Whitaker		Fri Jun 09 2017 23:52:38 EDT	Email	Relaying letter	DPP, ACP

DocID	From	To	Cc	Date	Type	Description	Privilege(s)
6929-000002					Attachment	Letter regarding draft legal advice	DPP, ACP
10815	Marchelle Moore	Curtis E. Gannon		Tue Jun 13 2017 11:35:02 EDT	Email	Relaying letter	DPP, ACP
10815-000001					Attachment	Letter regarding draft legal advice	DPP, ACP
5896	Rosemary Hart	Ashwin Phatak		Wed Jun 14 2017 12:25:52 EDT	Email	Relaying research material	DPP, ACP
5896-000001					Attachment	Research material	DPP, ACP
6134	Ashwin Phatak	Curtis E. Gannon; Rosemary Hart; Henry C. Whitaker		Wed Jun 14 2017 16:50:05 EDT	Email	Regarding letter regarding draft legal advice	DPP, ACP
6134-000001					Attachment	Letter regarding draft legal advice	DPP, ACP
9804	[none]			Mon Jun 19 2017 20:09:45 EDT	Document	Draft legal analysis	DPP, ACP
6154	Ashwin Phatak	Curtis E. Gannon; Rosemary Hart; Henry C. Whitaker		Wed Jun 28 2017 17:53:03 EDT	Email	Relaying draft legal analysis	DPP, ACP
6154-000001					Attachment	Draft legal analysis	DPP, ACP
6184	Ashwin Phatak	Curtis E. Gannon	Rosemary Hart; Henry C. Whitaker	Thu Jul 20 2017 18:43:01 EDT	Email	Regarding draft legal analysis	DPP, ACP
6038	Rosemary Hart	[EBE 3]	Ashwin Phatak	Thu Jul 27 2017 15:28:44 EDT	Email	Regarding draft legal analysis	DPP, ACP